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SUBJECT: NEW ANTI-PIRACY MOU BRINGS MALLS INTO THE FIGHT

REF: BANGKOK 3477

1. Summary: On August 16, 39 representatives from Thai law enforcement, government, IP rights holders and retail establishments signed a new Memorandum of Understanding (MOU) on prevention and suppression of intellectual property piracy. Owners of malls where pirated goods are widely available have been brought in under the MOU for the first time and given duties and responsibilities for preventing sales of illegal merchandise by lease holders in their establishments. The new MOU is a modest step forward in IPR enforcement, but rights holders consider it an important one. End Summary.

2. The new MOU replaces a June 2004 MOU, and is based largely on the earlier version. The MOU sets out responsibilities for IPR owners, law enforcement, local authorities and the RTG Department of Intellectual Property, and for the first time owners of noted retail establishments where pirated products are sold. Retailers were hesitant to sign earlier drafts of the MOU, recognizing that the MOU delineated a number of duties and responsibilities for them but no apparent benefits. Mall owners had stated concerns over liability issues, and managed to include a clause holding rights holders responsible for compensation for damages if a shop's lease was found to have been unjustly terminated for piracy. In the end, only one mall owner, MBK, declined to sign the MOU.

3. Rights holders applauded the MOU's inclusion of store owners, signifying it as an important step in encouraging cooperation from malls that have traditionally turned a blind eye to piracy. However, they recognized that implementation would be a different story and have realistic expectations on how much can be accomplished. Nevertheless, movie and recording industry reps said they planned to follow carefully the MOU's provisions and hold mall owners to their commitments. The Motion Picture Association's local rep suggested that recalcitrant mall owners could be brought up on conspiracy charges for aiding sales of illegal merchandise if they failed to cooperate.

4. The MOU is also notable for its inclusion of the Department of Special Investigations (DSI) (similar to the U.S. FBI), and the Bangkok Metropolitan Authority (BMA), which has responsibility over street vendors. DSI has shown enthusiasm in taking on IPR infringement cases, but BMA expressed doubts over its limitations in controlling street sales of pirated goods. Its commitment to the MOU is questionable, but as with retailers, rights holders are happy to have them under the same tent.

So much for cleaning the streets

5. RTG plans to sweep the streets clean of piracy for June and July in celebration of the King's 60th year on the throne (reftel) were a bust. With the exception of one week when all street vendors, including fruit carts and craft vendors, were kept off the streets

no concerted efforts against piracy took place. After the one week break, pirate retailers returned to the streets in force with no apparent impact on sales.

16. Ironically, on August 1, the day after the special enforcement period had ended, police made their biggest seizure of the year, raiding two houses and netting 300,000 pirated CDs and DVDs. A hapless employee who drove up to one of the houses as the raid began had his Toyota SUV seized as well as a thousand discs found inside the vehicle. Altogether police seized 42,191 music CDs and 35,465 movie DVDs. The rest of the booty was "series movies" including sets of TV series "Lost", "24", and popular Korean soap operas.

BOYCE